STATE OF MICHIGAN

COURT OF APPEALS

ERICA HODGES,

Plaintiff-Appellee,

v

TERRENCE TYRONE ADAMS,

Defendant-Appellant.

UNPUBLISHED
February 12, 2004

No. 244482
Wayne Circuit Court
LC No. 00-065719-DP

Before: Cooper, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

Defendant Terrance Adams appeals as of right from the trial court's September 24, 2002 Order of Filiation and Support. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Erica Hodges brought the instant action to establish the paternity of her son, Eriyon Adams, born May 24, 2000. Genetic testing revealed a 99.99% probability that defendant was Eriyon's father. Defendant acknowledged paternity on April 15, 2002. The Friend of the Court recommended that defendant pay child support in the amount of $81 per week. The trial court accepted this recommendation.

On appeal, defendant claims that the trial court deviated from the child support formula without fully complying with MCL 552.605. We disagree.

According to defendant, the trial court deviated from the formula by imputing income. As such, defendant claims that the trial court was compelled to abide by the requirements set forth under MCL 552.605(2)(a)-(e). The statute in question, MCL 552.605(2), provides as follows:

> Except as otherwise provided in this section, the court shall order child support in an amount determined by application of the child support formula developed by the state friend of the court bureau as required in section 19 of the friend of the court act, MCL 552.519. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

(a) The child support amount determined by application of the child support formula.

(b) How the child support order deviates from the child support formula.

(c) The value of property or other support awarded instead of the payment of child support, if applicable.

(d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

Defendant, however, fails to explain how the trial court deviated from the child support formula. The Michigan Child Support Formula Manual specifically provides for imputation of income when determining an individual's net income for purposes of establishing child support.[1] Accordingly, the trial court was not required to set forth an explanation of its ruling under MCL 552.605(2).

We also disagree with defendant's further claim that it was improper to impute the income he earned while interning in an educational program. A trial court's findings of fact in a child support case are reviewed for clear error on appeal, with the ultimate decision subject to review de novo.[2]

The child support formula is based on the needs of the child and the actual resources of the parents.[3] "'Actual resources' has been broadly applied to include certain parents' unexercised ability to pay child support."[4] When imputing income the trial court should consider the party's: prior employment experience; education level; physical and mental disabilities; available employment opportunities; prevailing wage rates; special skills and training; and evidence that the individual is able to earn the imputed income.[5]

Here, the record shows that defendant received a Bachelor's Degree from Howard University in May 2000, and entered the university's two-year Masters of Business Administration program the following August. During his tenure as a Howard University student, defendant was placed in an internship program with Ford Motor Company during the summers of 1996-1998, 2001. Similarly, defendant interned with Daimler-Chrysler during the summers of 1999-2000. The summer intern program terminated upon defendant's graduation in May 2002. After graduating from the undergraduate program, defendant was employed as a residential assistant with the university and received $45 per week, plus room and board.

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[1] MCSF (West, 2001) § II(I), p 8.

[2] *Good v Armstrong*, 218 Mich App 1, 4; 554 NW2d 14 (1996).

[3] *Shinkle v Shinkle (On Rehearing)*, 255 Mich App 221, 225; 663 NW2d 481 (2003).

[4] *Id.*; see also *Ghidotti v Barber*, 459 Mich 189, 198; 586 NW2d 883 (1998).

[5] *Ghidotti, supra* at 198-199.

In response to a questionnaire from the Friend of the Court, defendant maintained that he made $57 per week. The Friend of the Court rejected these stated wages and imputed an additional income of $561 per week to defendant. This amount represented the income defendant earned during his 2001 internship with Ford Motor Company. After accounting for all allowable deductions, defendant's adjusted net income was determined to be $353 per week. Based on this weekly adjusted net income, the Friend of the Court calculated defendant's child support payments at $81 per week. In adopting the Friend of the Court's recommendation, the trial court noted defendant's ability to work and seek gainful employment. The trial court further commented that it was in defendant's best interest to impute income from his last internship rather than recalculate his ability to pay based on his recently obtained business degree.

In *Olson v Olson*,[6] the plaintiff argued that it was improper for the trial court to impute income for child support purposes when he was leaving his place of employment for additional schooling. But this Court held "that when a party voluntarily reduces or eliminates income, and the trial court concludes that the party has the ability to earn an income and pay child support, the court does not err in entering a support order based upon the unexercised ability to earn."[7] Because the trial court is permitted to consider an individual's unexercised ability to earn, we find no error in the instant case.[8] As we stated in *Olson*, "[w]hile we fully support an individual's desire to improve circumstances, we cannot sanction doing so at the expense of the individual's minor children."[9]

Affirmed.

/s/ Jessica R. Cooper
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood

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[6] *Olson v Olson*, 189 Mich App 620, 621; 473 NW2d 722 (1991).

[7] *Id*. at 622.

[8] *Id*.; see also *Rohloff v Rohloff*, 161 Mich App 766; 411 NW2d 484 (1987).

[9] *Olson, supra* at 622.